

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOHN ALVIN BECK,

Plaintiff,

3:18-cv-01131 (BKS/DEP)

v.

NEW YORK STATE ELECTRIC AND GAS
CORPORATION,

Defendant.

Appearances:

John Alvin Beck
Groton, NY 13073
Plaintiff pro se

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

On September 19, 2018, Plaintiff pro se John Alvin Beck filed a civil rights complaint under 42 U.S.C. § 1983 against Defendant New York State Electric and Gas Corporation (“NYSEG”). (Dkt. No. 1). This action was referred to United States Magistrate Judge David E. Peebles who, on October 11, 2018, issued a Report and Recommendation recommending that Plaintiff’s complaint be dismissed with leave to replead because Defendant NYSEG is a private, nongovernmental entity and Plaintiff’s complaint “fails to disclose any basis upon which it could be found that NYSEG was acting under color of state law in its dealings with the Plaintiff.” (Dkt. No. 4, at 7–8). Plaintiff has filed a letter and exhibits, docketed as objections to the Report and Recommendation, which provide further details regarding NYSEG’s failure to read his meter; these filings, however, do not address Magistrate Judge Peebles’ determination that this action must be dismissed because NYSEG is not a state actor. (Dkt. No. 5).

This Court reviews de novo those portions of the Magistrate Judge's findings and recommendations that have been properly preserved with a specific objection. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); 28 U.S.C. § 636(b)(1)(C). “A proper objection is one that identifies the specific portions of the [report-recommendation] that the objector asserts are erroneous and provides a basis for this assertion.” *Kruger v. Virgin Atl. Airways, Ltd.*, 976 F. Supp. 2d 290, 296 (E.D.N.Y. 2013) (internal quotation marks omitted). Properly raised objections must be “specific and clearly aimed at particular findings” in the report. *Molefe v. KLM Royal Dutch Airlines*, 602 F. Supp. 2d 485, 487 (S.D.N.Y. 2009). Findings and recommendations as to which there was no properly preserved objection are reviewed for clear error. *Id.*

Having carefully reviewed Plaintiff's submission, (Dkt. No. 5), the Court finds that Plaintiff failed to raise any specific objection to the Report and Recommendation. In any event, even if Plaintiff had raised a specific objection warranting de novo review, the Court would concur in Magistrate Judge Peebles' recommendation for the reasons set forth in his Report and Recommendation.

Accordingly, it is hereby

ORDERED that Magistrate Judge Peebles' Report and Recommendation (Dkt. No. 4) is **ADOPTED** in all respects; and it is further

ORDERED that Plaintiff's complaint is **DISMISSED**, with leave to replead, within 30 days from the date of this Order; and it is further

ORDERED that, if Plaintiff fails to file an amended complaint within 30 days from the date of this Order or to request an extension of time to do so, the Clerk is directed to enter judgment without further order of this Court; and it is further

ORDERED that the Clerk serve a copy of this Order on the Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: November 9, 2018
Syracuse, New York

A handwritten signature in black ink, reading "Brenda K. Sannes". The signature is written in a cursive, flowing style. The first name "Brenda" is written in a larger, more prominent script, followed by "K." and "Sannes". The signature is positioned above a horizontal line.

Brenda K. Sannes
U.S. District Judge